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**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHN W. GUTHRIE, aka Johnny Guthrie,

Plaintiff - Appellant,

v.

**SCOTTSDALE, CITY OF, an Arizona
municipal corporation and a political
subdivision of the State of Arizona; et al.,**

Defendants - Appellees.

No. 03-17279

D.C. No. CV-02-02468-RCB

MEMORANDUM*

**Appeal from the United States District Court
for the District of Arizona
Robert C. Broomfield, District Judge, Presiding**

**Argued and Submitted October 19, 2005
San Francisco, California**

Before: D.W. NELSON, RAWLINSON, and BEA, Circuit Judges.

**John W. Guthrie appeals the district court's grant of summary judgment
against his claim that appellee City of Scottsdale violated his First Amendment**

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

rights by firing him from his position as Assistant City Attorney / Police Legal Advisor. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

A public employee's status as a "policymaking" employee disposes of any First Amendment retaliation claim under 42 U.S.C. § 1983. *Walker v. City of Lakewood*, 272 F.3d 1114, 1131 (9th Cir. 2001); *Biggs v. Best, Best & Krieger*, 189 F.3d 989, 994-95 (9th Cir. 1999); *Fazio v. City and County of San Francisco*, 125 F.3d 1328, 1332 (9th Cir. 1997). We need not address Guthrie's contention that the rule of these cases should be limited to speech implicating official policies or political purpose and support, for we find that the speech for which Guthrie was fired falls clearly within such parameters.

Taking into account the factors set forth in *Walker*, 272 F.3d at 1132, we agree with the district court that the facts conceded by Guthrie are sufficient to compel the determination that he was a policymaker. The inherent duties of Guthrie's position were very similar to those of the lawyer held to be a policymaker in *Biggs*. *See* 189 F.3d at 996; *see also id.* at 995 (noting that courts faced with the issue have almost always deemed city-government attorneys other than public defenders to be policymakers). Guthrie was a policymaker because speech-based requirements were appropriate for the effective performance of his public office. *See id.* at 996.

AFFIRMED.